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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/736,190	12/15/2000	Cord Wohltmann	31653-167278 RK	8459
26694	7590	03/22/2004		
VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP P.O. BOX 34385 WASHINGTON, DC 20043-9998				
			EXAMINER CHOI, STEPHEN	
			ART UNIT 3724	PAPER NUMBER 14
DATE MAILED: 03/22/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/736,190

Applicant(s)

WOHLTMANN, CORD

Examiner

Stephen Choi

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2003.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 10-29 is/are pending in the application.  
4a) Of the above claim(s) 11 is/are withdrawn from consideration.  
5) ☒ Claim(s) 19-25 is/are allowed.  
6) ☒ Claim(s) 10, 12-18 and 26-29 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 15 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date 14.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 22 December 2003 has been entered.

### ***Claim Objections***

2. Claim 26 is objected to because of the following informalities: line 2, "ina: should be --in a--". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 10, 12-13, 16, and 26-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Harrington et al. (US 4,534,252).

Harrington discloses all the positively recited elements of the invention including:

- a) an unbalanced drive including an output member (Figure 1) rotatable about a first axis (A);

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- b) a mobile ledger being reciprocal back and forth in and counter to a predetermined direction and receiving motion from the output member (1) wherein the ledger moving along an essentially linear path (6);
- c) an arrangement for compensating for the lack of balance of the drive including a first counterpoise (12) arranged to orbit about the first axis (A);
- d) a second counterpoise (12) arranged to orbit about a second axis (A) being spaced apart from the first axis;
- d) a crank mechanism having a crank arm including a first portion (at B) and a second portion (Figure 1);
- e) a shaft rotatable about the second axis and mounting the second counterpoise (10) and means for rotating the shaft in synchronism with the output member (at O).

Regarding claims 26-27, centers of gravity of the first and second counterpoises are disposed in an at least substantially vertical common plane. It is noted that any two points of the counterpoises can be disposed in a common plane. Regarding claim 28, two at least substantially tubular guides (2). Regarding claim 29, the drive has a single crank member (5).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Niemann (US 5,050,471) in view of Harrington et al. (US 4,534,252).

Niemann discloses the invention substantially as claimed except for an arrangement for compensating the lack of balance of a drive including a first counterpoise arranged to orbit about a first axis and a second counterpoise arranged to orbit about a second axis being spaced apart from the first axis. Harrington discloses an arrangement for compensating the lack of balance of a drive including a first counterpoise (12) arranged to orbit about a first axis (A) and a second counterpoise (12) arranged to orbit about a second axis (A) being spaced apart from the first axis. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ such an arrangement as taught by Harrington on the device of Niemann in order to compensate the lack of balance of the drive to prevent excessive vibrations of the apparatus.

7. Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrington et al. (US 4,534,252) in view of Trofimov et al. (US 3,915,041).

Harrington discloses the invention substantially as claimed except for an endless flexible torque transmitting element comprising a V-belt. Trofimov discloses a V-belt (42). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ an endless flexible torque transmitting element comprising a V-belt as taught by Trofimov on the device of Harrington in order to provide means for transmitting torque from the output member to the second counterpoise such that both counterpoises rotate in synchronism.

***Allowable Subject Matter***

8. Claims 19-25 are allowed.

***Response to Arguments***


9. Applicant's arguments with respect to claims 10, 12-18, and 26-29 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Choi whose telephone number is 703-306-4523. The examiner can normally be reached on Monday thru Friday between 9am and 5pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

SC  
March 19, 2004

  
**STEPHEN CHOI  
PRIMARY EXAMINER**